IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2678 OF 2004
IN
APPEAL (L) NO.522 OF 2004
IN
CHAMBER SUMMONS NO.242 OF 2004
IN
EXECUTION APPLICATION NO.18 OF 2004

Manharlal Trikamdas Mody .. Appellant.

V/s.

Sumikin Bussan International
(Hong Kong) Ltd. & Others .. Respondents.

Mr.A.S. Doctor i/b. Kanga & Co. for the appellant.

Mr.Chetan Kapadia i/b. Khaitan & Co. for respondent No.1.

Ms.Jyoti Ghag i/b. T. Jariwala & Associates for respondent Nos.2 and 3.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 7TH OCTOBER, 2004.

P.C. :

Heard.

2. There is delay of 52 days in filing the appeal. The reason for delay, as set out in the affidavit in support of the notice of motion, is illness of the appellant. The medical documents have

been filed.

3. The learned counsel for the respondent No.1 opposed the notice of motion on diverse grounds inter alia (i) that the appeal preferred by present respondent Nos.2 and 3 against the impugned order has already been dismissed and that the order dated September 23, 2003 passed by the Chamber Judge in Chamber Summons No.777 of 2003 has not been complied with by the appellant. We are afraid the objections of the learned counsel for the respondent No.1 do not have much relevance for consideration of the application for condonation of delay.

4. We are satisfied that the appellant has been able to make out sufficient cause that prevented him in filing the appeal in time. The inconvenience caused to the respondent No.1 can be compensated by way of reasonable cost.

5. We, accordingly, condone the delay in filing the appeal, subject to appellant paying a cost of Rs.10,000/- to the first respondent within two weeks from today.

6. The registry shall then process the appeal

and post it for admission as soon as numbered.

7. The contention raised by the learned counsel for the first respondent in opposition to the notice of motion are kept open to be agitated in opposition to the admission of the appeal.

8. The notice of motion stands disposed of.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)